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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,832	07/10/2003	Yoshifumi Tanimoto	030733	8885
38834 7590 12/08/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER				
MACILWINEN, JOHN MOORE JAIN				
ART UNIT		PAPER NUMBER		
2442				
MAIL DATE		DELIVERY MODE		
12/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/615,832

Applicant(s)

TANIMOTO, YOSHIFUMI

Examiner

John M. MacIwinen

Art Unit

2442

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2442

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Applicant begins by arguing the rejection made under 35 USC 112, 1st Paragraph, made regarding claims 1, 5 and 11. Said claims recite determining not to transmit the new mail notification by the push method protocol when the received electronic mail is a reception confirmation mail transmitted previously. Applicant points to pg. 13 line 28 - pg. 14 line 11 for support. However, said section specifies that when the new mail notification is required, then whether or not the mail is a reception confirmation message is determined. That is, this step considering the whether the mail is a reception confirmation mail only occurs after already determining that a "new mail notification is required (YES in step 13). The claim language currently specifies that the determination step itself considers if the mail is a reception confirmation mail; this is not support by Applicant's specification.

Applicant next argues that the references applied to claim 1 teach away from not transmitting reception confirmation messages. Applicant points to figure 10 of Wakasugi as support for this assertion. However, Wakasugi's Fig. 10 only shows that confirmation messages are possible; the fact they reception confirmation messages are an option does not imply that they are, as applicant argues, a "high priority". Furthermore, Applicant's argument against choosing one option from a finite number of choices (in this case, 2 choices) is similarly unpersuasive.

Applicant next argues that Boyle does not address "each of a plurality of electronic mail addresses", arguing that Boyle "speaks in terms of a single user account". Applicant, however, provides no support for this assertion, and thus Applicant's argument is not persuasive. Furthermore, Boyle refers to multiple addresses in col. 1 lines 54-56, col. 7 lines 15 - 16 and col. 7 lines 20, among others.

Applicant next argues that the cited art does not show "means for registering whether or not to carry out new mail notifications...." and that said cited art does not show "wherein the means for transmitting determines whether or not to carry out". However, Applicant's arguments amount to mere allegations of patentability; Applicant does not provide any supporting citations and Applicant's arguments are not persuasive. .